

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TENNESSEE
KNOXVILLE DIVISION**

STATE OF TENNESSEE <i>et al.</i> ,)	
)	
Plaintiffs,)	
)	
v.)	Civil Action No. 3:24-cv-00224
)	Judge Charles E. Atchley, Jr.
EQUAL EMPLOYMENT)	Magistrate Judge Debra C. Poplin
OPPORTUNITY COMMISSION <i>et al.</i> ,)	
)	
Defendants.)	
)	

**NOTICE OF EXECUTIVE ORDER AND
UNOPPOSED MOTION TO VACATE HEARING DATE**

Defendants respectfully provide notice to the Court of a recently issued Executive Order and also request that the Court vacate the oral argument pertaining to Plaintiff's Motion for Preliminary Injunction on January 27, 2025, at 10:30 a.m. ET.

1. This case involves Plaintiffs' challenge to a document issued by the Equal Employment Opportunity Commission ("EEOC"), entitled Enforcement Guidance on Harassment in the Workplace ("Guidance"). On May 31, 2024, Plaintiffs filed a Motion for a § 705 Stay and Preliminary Injunction, which sought an order enjoining Defendants from enforcing, relying on, implementing, or otherwise acting pursuant to the portions of the Guidance Plaintiffs challenge. See Doc. 32.

2. This Court set an in-person oral argument for January 27, 2025. While the Court ordered the parties to be prepared to discuss the substantive issues raised by Plaintiffs' motion, it also acknowledged the "practical reality" that "agency interpretations . . . often change from one presidential administration to the next" and cited "the need to conserve limited judicial resources." Doc. 86.

3. President Donald J. Trump was inaugurated on January 20, 2025. The same day, President Trump issued an executive order, “Defending Women From Gender Ideology Extremism and Restoring Biological Truth to the Federal Government.” Among other items, this EO directed the EEOC to rescind all or part of the Guidance at issue in this case. *See* Executive Order § 7(c)(iv) (Jan. 20, 2025), <https://www.whitehouse.gov/presidential-actions/2025/01/defending-women-from-gender-ideology-extremism-and-restoring-biological-truth-to-the-federal-government/>.¹

4. On the same day, the President designated a new Acting Chair of the EEOC, Andrea Lucas. *See* President Trump Designates Chairmen and Acting Chairmen (Jan. 20, 2025), <https://www.whitehouse.gov/presidential-actions/2025/01/designation-of-chairmen-and-acting-chairmen/>. The Department of Justice similarly has new leadership as of President Trump’s inauguration.

5. Defendants respectfully suggest that these developments warrant vacating the oral argument. The position of the United States is reflected in the President’s Executive Order, notwithstanding any prior position taken by the Defendants in this case. In light of that position, the President has directed the EEOC to rescind the Guidance.

6. On January 21, 2025, Defendants’ counsel conferred with Plaintiffs’ counsel about the relief requested in this motion. Plaintiffs’ counsel indicated they do not oppose vacating the January 27 hearing date in light of recent circumstances, including the Executive Order.

For the foregoing reasons, Defendants respectfully request that the Court vacate the oral argument currently scheduled for January 27, 2025, at 10:30 a.m. ET.

¹ Section 7(c)(iv) provides “[e]ach agency head shall promptly rescind all guidance documents inconsistent with the requirements of this order or the Attorney General’s guidance issued pursuant to this order, or rescind such parts of such documents that are inconsistent in such manner. Such documents include, but are not limited to . . . (iv) the Equal Employment Opportunity Commission’s ‘Enforcement Guidance on Harassment in the Workplace’ (April 29, 2024).”

Dated: January 22, 2025

Respectfully submitted,

Brett A. Shumate
Acting Assistant Attorney General
Civil Division

Emily B. Nestler
Assistant Branch Director

/s/ Jacob S. Siler
ALLYSON SCHER (DC Bar No. 1616379)
JACOB S. SILER (DC Bar No. 1003383)
Trial Attorneys
U.S. Department of Justice
Civil Division, Federal Programs Branch
1100 L Street N.W.
Washington, D.C. 20005
Telephone: (202) 514-9836
Facsimile: (202) 616-8460
E-mail: allyson.r.scher@usdoj.gov

Counsel for Defendants